



North Carolina Department of Environment and Natural Resources
Division of Land Resources
Land Quality Section

James D. Simons, PG, PE
Director and State Geologist

Beverly Eaves Perdue, Governor
Dee Freeman, Secretary

January 14, 2011

Mr. James K. Fogleman
Fogleman & Fogleman Soils, Inc.
4005 Intermere Road
Durham, North Carolina 27704

RE: Mining Permit No. 32-09
Fogleman & Fogleman Soils, Inc. Mine
Durham County
Neuse River Basin

Dear Mr. Fogleman:

Your application for renewal of the above referenced mining permit has been approved. A copy of the renewed permit is enclosed. The new expiration date is January 14, 2021.

The conditions in the permit renewal were based primarily upon the initial application. Modifications were made as indicated by the renewal request and as required to insure compliance with The Mining Act of 1971. I would like to draw your particular attention to the following conditions where minor additions or changes were made: Operating Conditions No. 4B, 5, 9, and 14 and Reclamation Condition No. 3.

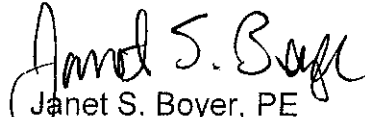
With this renewal, the allowable permitted and affected acreage has increased from 36.0 acres to 43.06 acres to include all previous referenced buffers as well as the haul road until its intersection with the nearest state maintained road.

As a reminder, your permitted acreage and affected acreage for this site are both 43.06 acres, as indicated in the application and on the mine map received by the Land Quality Section on April 6, 2010.

Mr. Fogleman
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Please review the renewed permit and contact Ashley Rodgers, Assistant State Mining Specialist, at (919) 733-4574 should you have any questions concerning this matter.

Sincerely,


Janet S. Boyer, PE
State Mining Specialist
Land Quality Section

JB/ar

Enclosures

cc: Mr. John Holley, PE
Ms. Shannon Deaton-WRC, w/enclosures
Mr. William Gerringer-DOL, Mine and Quarry Bureau, w/o enclosures

**DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES**

DIVISION OF LAND RESOURCES

LAND QUALITY SECTION

PERMIT

For the operation of a mining activity

In accordance with the provisions of G.S. 74-46 through 68, "The Mining Act of 1971," Mining Permit Rule 15A NCAC 5 B, and other applicable laws, rules and regulations

Permission is hereby granted to:

Fogleman & Fogleman Soils, Inc.

Fogleman & Fogleman Soils, Inc. Mine

Durham County – Permit No. 32-09

for the operation of a

Borrow Pit

Which shall provide that the usefulness, productivity, and scenic values of all lands and waters affected by this mining operation will receive the greatest practical degree of protection and restoration.

MINING PERMIT EXPIRATION DATE: January 14, 2021

In accordance with the application for this mining permit, which is hereby approved by the Department of Environment and Natural Resources, hereinafter referred to as the Department, and in conformity with the approved Reclamation Plan attached to and incorporated as part of this permit, provisions must be made for the protection of the surrounding environment and for reclamation of the land and water affected by the permitted mining operation. This permit is expressly conditioned upon compliance with all the requirements of the approved Reclamation Plan. However, completed performance of the approved Reclamation Plan is a separable obligation, secured by the bond or other security on file with the Department, and may survive the expiration, revocation, or suspension of this permit.

This permit is not transferable by the permittee with the following exception: If another operator succeeds to the interest of the permittee in the permitted mining operation, by virtue of a sale, lease, assignment or otherwise, the Department may release the permittee from the duties imposed upon him by the conditions of his permit and by the Mining Act with reference to the permitted operation, and transfer the permit to the successor operator, provided that both operators have complied with the requirements of the Mining Act and that the successor operator agrees to assume the duties of the permittee with reference to reclamation of the affected land and posts a suitable bond or other security.

In the event that the Department determines that the permittee or permittee's successor is not complying with the Reclamation Plan or other terms and conditions of this permit, or is failing to achieve the purposes and requirements of the Mining Act, the Department may give the operator written notice of its intent to modify, revoke or suspend the permit, or its intent to modify the Reclamation Plan as incorporated in the permit. The operator shall have right to a hearing at the designated time and place on any proposed modification, revocation or suspension by the Department. Alternatively and in addition to the above, the Department may institute other enforcement procedures authorized by law.

Definitions

Whenever used or referred to in this permit, unless the context clearly indicates otherwise, terms shall have the same meaning as supplied by the Mining Act, N.C.G.S. 74-49.

Modifications

April 22, 1998: This permit has been modified to increase both the permitted and affected acreage from 12.5 acres to 36.0 acres as indicated on the mine map last revised October 20, 1997. In addition, the name on the permit has changed from James K. Fogleman to Fogleman Landfill and Mine, Inc.

January 30, 2009: This permit has been modified to transfer the permit in its entirety from Fogleman Landfill and Mine, Inc. to Fogleman & Fogleman Soils, Inc. In addition, the mine name has been changed from Fogleman Mine to Fogleman & Fogleman Soils, Inc. Mine.

Expiration Date

This permit shall be effective from the date of its issuance until January 14, 2021.

Conditions

This permit shall be subject to the provisions of the Mining Act, N.C.G.S. 74-46, et. seq., and to the following conditions and limitations:

OPERATING CONDITIONS:

1. A. Any wastewater processing or mine dewatering shall be in accordance with the permitting requirements and rules promulgated by the N.C. Environmental Management Commission.
B. Any stormwater runoff from the affected areas at the site shall be in accordance with any applicable permit requirements and regulations promulgated by the Environmental Management Commission. It shall be the permittee's responsibility to contact the Division of Water Quality to secure any necessary stormwater permits or other approval documents.
2. A. Any mining process producing air contamination emissions shall be subject to the permitting requirements and rules promulgated by the N.C. Environmental Management Commission and enforced by the Division of Air Quality.
B. During mining operations, water trucks or other means that may be necessary shall be utilized to prevent dust from leaving the permitted area.
3. A. Sufficient buffer (minimum 50 foot undisturbed) shall be maintained between any affected land and any adjoining waterway or wetland to prevent sedimentation of that waterway or wetland from erosion of the affected land and to preserve the integrity of the natural watercourse or wetland.
B. Any mining activity affecting waters of the State, water of the U. S., or wetlands shall be in accordance with the requirements and regulations promulgated and enforced by the N. C. Environmental Management Commission.
4. A. Adequate mechanical barriers including but not limited to diversions, earthen dikes, check dams, sediment retarding structures, rip rap pits, or ditches shall be provided in the initial stages of any land disturbance and maintained to prevent sediment from discharging onto adjacent surface areas or into any lake, wetland or natural watercourse in proximity to the affected land.
B. Mining activities, including the installation and maintenance of the approved sediment basins and associated diversion channels, shall be conducted as indicated on the mine map received by the Land Quality Section on April 6, 2010 and the supplemental information received on August 26, 2009, and April 6, 2010.
5. All mining permit boundaries (43.06 acres) shall be permanently marked at the site on 100-foot intervals unless the line of sight allows for larger spacing intervals.

6. The angle for graded slopes and fills shall be no greater than the angle, which can be retained by vegetative cover or other adequate erosion control measure, structure, or device. In any event, exposed slopes or any excavated channels, the erosion of which may cause off-site damage because of siltation, shall be planted or otherwise provided with ground cover, devices or structures sufficient to restrain such erosion.
7. The affected land shall be graded so as to prevent collection of pools of water that are, or likely to become, noxious or foul. Necessary structures such as drainage ditches or conduits shall be constructed or installed when required to prevent such conditions.
8. Existing vegetation or vegetated earthen berms shall be maintained between the mine and public thoroughfares whenever practical to screen the operation from the public.
9. Sufficient buffer (minimum 50 foot undisturbed, except for any approved erosion and sedimentation control) shall be maintained between any excavation and any mining permit boundary or right-of-way to protect adjacent property.
10. A physical barrier consisting of a fence or earthen berm, etc., shall be maintained around the perimeter of any highwall.
11.
 - A. No on-site disposal of refuse or other solid waste that is generated outside of the mining permit area shall be allowed within the boundaries of the mining permit area unless authorization to conduct said disposal has first been obtained from both the Division of Waste Management and the Land Quality Section, Department of Environment and Natural Resources. The method of disposal shall be consistent with the approved reclamation plan.
 - B. Mining refuse defined by G.S. 74-49 (14) of The Mining Act of 1971 generated on-site and directly associated with the mining activity may be disposed of in a designated refuse area. All other waste products must be disposed of in a disposal facility approved by the Division of Waste Management. No petroleum products, acids, solvents or their storage containers or any other material that may be considered hazardous shall be disposed of within the permitted area.
 - C. For the purposes of this permit, the Division of Land Resources considers the following materials to be "mining refuse" (in addition to those specifically listed under G.S. 74-49 (14) of the N.C. Mining Act of 1971):
 1. on-site generated land clearing debris
 2. conveyor belts
 3. wire cables
 4. v-belts
 5. steel reinforced air hoses
 6. drill steel

- D. If mining refuse is to be permanently disposed within the mining boundary, the following information must be provided to and approved by the Division of Land Resources prior to commencement of such disposal:

1. the approximate boundaries and size of the refuse disposal area;
2. a list of refuse items to be disposed;
3. verification that a minimum of 4 feet of cover will be provided over the refuse;
4. verification that the refuse will be disposed at least 4 feet above the seasonally high water table; and
5. Verification that a permanent vegetative groundcover will be established.

- E. The disposal of demolition landfill material at the site shall be in accordance with Solid Waste Permit No. 32-F, and any subsequent approved modifications to said permit, issued by the Department of Environment and Natural Resources, Division of Waste Management.

12. An annual Reclamation Report shall be submitted on a form supplied by the Department by February 1 of each year until reclamation is completed and approved.
13. The operator shall notify the Department in writing of the desire to delete, modify or otherwise change any part of the mining, reclamation, or erosion/sediment control plan contained in the approved application for a mining permit and any approved revisions to it. Approval to implement such changes must be obtained from the Department prior to on-site implementation of the revisions.
14. The security, which was posted pursuant to N.C.G.S. 74-54 in the form of a \$177,700.00 Surety Bond, is required for this site, is sufficient to cover the operation as indicated in the approved application. This security must remain in force for this permit to be valid. The total affected land shall not exceed the bonded acreage.
15.
 - A. Authorized representatives of the Division of Archives and History shall be granted access to the site to determine the presence of significant archaeological resources.
 - B. Pursuant to N. C. G. S. 70 Article 3, "The Unmarked Human Burial and Human Skeletal Remains Protection Act, " should the operator or any person in his employ encounter human skeletal remains, immediate notification shall be provided to the county medical examiner and the chief archaeologist, North Carolina Division of Archives and History.

APPROVED RECLAMATION PLAN

The Mining Permit incorporates this Reclamation Plan, the performance of which is a condition on the continuing validity of that Mining Permit. Additionally, the Reclamation Plan is a separable obligation of the permittee, which continues beyond the terms of the Mining Permit.

The approved plan provides:

Minimum Standards As Provided By G.S. 74-53

1. The final slopes in all excavations in soil, sand, gravel and other unconsolidated materials shall be at such an angle as to minimize the possibility of slides and be consistent with the future use of the land.
2. Provisions for safety to persons and to adjoining property must be provided in all excavations in rock.
3. All overburden and spoil shall be left in a configuration which is in accordance with accepted conservation practices and which is suitable for the proposed subsequent use of the land.
4. No small pools of water shall be allowed to collect or remain on the mined area that are, or likely to become noxious, odious or foul.
5. The revegetation plan shall conform to accepted and recommended agronomic and reforestation practices as established by the North Carolina Agricultural Experiment Station and the North Carolina Forest Service.
6. Permittee shall conduct reclamation activities pursuant to the Reclamation Plan herein incorporated. These activities shall be conducted according to the time schedule included in the plan, which shall to the extent feasible provide reclamation simultaneous with mining operations and in any event, provide reclamation at the earliest practicable time after completion or termination of mining on any segment of the permit area and shall be completed within two years after completion or termination of mining.

RECLAMATION CONDITIONS:

1. Provided further, and subject to the Reclamation schedule, the planned reclamation shall be to fill the mined area with demolition landfill material according to Solid Waste Permit No. 32-F, and any subsequent approvals to said permit, sufficiently cover the landfill material, and properly regrade and satisfactorily revegetate any remaining disturbed areas.

2. The specifications for surface gradient restoration to a surface suitable for planned future use are as follows:
 - A. All the final perimeter sideslopes shall be graded to a 2 horizontal to 1 vertical or flatter slope.
 - B. Any settling ponds or sediment basins shall be backfilled and stabilized.
 - C. The processing, stockpile, and other disturbed areas neighboring the mine excavation shall be leveled and smoothed.
 - D. Compacted surfaces shall be disced, subsoiled or otherwise prepared before revegetation.
 - E. No contaminants shall be permanently disposed of at the mine site. On-site disposal of waste shall be in accordance with Operating Condition 11A through D.
 - F. The disposal of demolition landfill material shall be in accordance with Solid Waste Permit No. 32-F and any subsequent approvals to said permit. A minimum of two feet of cover shall be applied prior to final revegetation and closure of the landfill.
 - G. The affected land shall be graded to prevent the collection of noxious or foul water.

3. Revegetation Plan:

After site preparation, all disturbed land areas shall be revegetated as per the following:

Permanent Seeding Specifications

<u>Dates</u>	<u>Species</u>	<u>Rate, Lbs/Acre</u>
February 15 – April 1	Kobe Lespedeza	10
	Bahiagrass	50
	Redtop	1
	Winter rye (grain)	15
April 1 – July 31	Common Bermuda	50
August 1 – October 25	Lespedeza (unscarified)	30
	German millet	40
October 25 – February 15	Rye (grain – temporary)	120

Soil Amendments

Lime - 2000 lbs/acre or follow recommendations from a soil test.

Fertilizer - 1000 lbs/acre 8-8-8 or 10-10-10, or follow recommendations from a soil test.

Mulch - All seeded areas shall be mulched using small grain straw at a rate of 2000 lbs/acre and anchored appropriately.


Whenever possible, disturbed areas should be vegetated with native warm season grasses such as switch grass, Indian grass, bluestem and gamma grass.


In addition, the permittee shall consult with a professional wildlife biologist with the N.C. Wildlife Resources Commission to enhance post-project wildlife habitat at the site.

4. Reclamation Plan:

Reclamation shall be conducted simultaneously with mining to the extent feasible. In any event, reclamation shall be initiated as soon as feasible after completion or termination of mining of any mine segment under permit. Final reclamation, including revegetation, shall be completed within two years of completion or termination of mining.

This permit, issued July 20, 1994, modified April 22, 1998, renewed September 1, 1999 and transferred in its entirety to Fogleman & Fogleman Soils, Inc. January 30, 2009 is hereby renewed this 14th day of January 2011 pursuant to G.S. 74-52.

By: Francis M. Nix 

 James D. Simons, Director
Division of Land Resources
By Authority of the Secretary
Of the Department of Environment and Natural Resources